IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14645 of 2007
To
SPECIAL CIVIL APPLICATION No. 14652 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAINBOW ORGANIZERS - Petitioner(s)
Versus
THE CHIEF CONTROLLING REVENUE AUTHORITY & 1 - Respondent(s)

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Appearance :
MR RN SHAH for Petitioner(s) : 1,
MR.SUNIT SHAH GP WITH MS.NISHA PARIKH AGP for Respondent(s) : 1 - 2.
RULE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 24/07/2007

ORAL JUDGMENT

1. **RULE.** Learned A.G.P. Ms.Nisha Parikh waives service of Rule for the respondents.

2. Common grievance of the petitioners in all these petitions is that final notices for recovery of deficit stamp duty are issued to them under the provisions of Section 152 of the Bombay Land Revenue Code pursuant to the transfer of land which took place in or around the year 1999. It is their case, generally, that they have not received the notices required to be served upon them before assessing market value of the lands in question and that their appeals are not decided on merits after giving to the petitioners an opportunity of being heard.

3. Learned A.G.P. Ms.Nisha Parikh, appearing for the respondents, pointed out that repeated attempts have been made by the authorities to afford to the petitioners opportunity of being heard but, due to one or the other reasons, either the notices of proceedings under the Bombay Stamp Act, 1958 (for short “the Act”) are not served upon the petitioners or acknowledgment for their receipt by the petitioners are not found on record. Therefore, in short, there are

one or the other procedural lapses rendering the impugned orders and the proceedings vulnerable on technical grounds, according to the submission. It was, therefore, fairly stated on behalf of the respondents that the respondents would have no objection to the final orders and notices being set aside with the direction to initiate proceedings for determination of market value and assessment of stamp duty afresh under the provisions of Section 32-A of the Act and to conclude the same expeditiously within a given time limit.

4. Therefore, by consent, the impugned notices and orders are set aside with the direction to the respondents to issue fresh notices under the provisions of Section 32-A of the Act and Rules made thereunder and determine the market value of the subject matter of conveyance in accordance with law after giving to the parties concerned a reasonable opportunity of being heard. The petitioners shall furnish their correct current address to the authority

concerned for service of notice upon them and the proceedings shall be conducted and concluded as expeditiously as practicable. It is clarified that the impugned orders determining liability of the petitioners are not examined on merits by this Court. Subject to these observations and directions, petitions are partly allowed and Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.WAGHELA, J.)

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